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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

SCHWARTZ, CHRISTOPHER P

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,180

Applicant(s)

LOGGEN ET AL.

Examiner

Christopher P. Schwartz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-11, 14, 15, 20-34 is/are rejected.
- 7) ☒ Claim(s) 7, 12, 13, 16-19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

CHRISTOPHER P. SCHWARTZ
PRIMARY EXAMINER

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement has been received and considered.

Specification

2. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 28-30 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 28 line 5 the phrase "so that can move" is unclear.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-6,9-11,14,20,21,24,25,26,28,32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Tillman et al. '468.

Regarding claim 1 Tillman '468 discloses a drive for a movable element, as broadly claimed, including a housing 16, a spring element 29, a spring supporting member 28 or 31, a roller element 22 or 26 with the roller element being arranged at the curved surface of the spring supporting member 28.

Regarding claim 2 just about any surface of the spring supporting element may be interpreted as being "curved".

Regarding claim 3, as broadly claimed, these requirements are met.

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Regarding claim 4 note that spring supporting element 28 has two bores (i.e. different curved surfaces) of different diameter. The roller 26 can be said to be arranged at one curved surface while roller element 22 can be said to be arranged at the curved opening surface.

Regarding claims 5,9,11,14,20,21 as can easily be seen in the drawings, these requirements are met.

Regarding claim 6 note the "shaft" as broadly claimed could be interpreted as the shaft portion of the screw 33 or the pin at 27.

Regarding claim 10 note the spring at 30 and the washer on which it resides.

Regarding claim 24 note the damping arrangement at 30 or 45-48.

Regarding claims 25-26, as broadly claimed, note the setting arrangement at 22,35.

Regarding claim 28 the shaft is at 13, the "guide element" at 35,36 and the connecting link at 22.

Regarding claims 32-34 these requirements are met.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

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the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1-4,6,6,8-11,14,15,20-22,24-34 rejected under 35 U.S.C. 102(b) as being anticipated by Tillman '939. or, in the alternative, under 35 U.S.C. 103(a) as obvious over Tillman '939 in view of Bienck.

Regarding claim 1 Tillmann '939 discloses a door closure device in figures 1 and 2 (as per applicant's) including a housing 10, at least one spring element 31, at least one spring supporting member – flange 35 having a curved inner surface (note it is hollow), and at least one roller element 28 arranged “at” the spring supporting member 35 and “at” its curved surface, as broadly claimed.

However it is known to support such an element or flange at 35 with a washer, as shown at 4,21 of Bienck, which may also be interpreted as a spring supporting member, as broadly claimed. Note also the washer 6 below element 5 in Bienck.

Regarding 2 note the curved surface at the second end of the spring supporting member in the area of element 27.

Regarding claim 3 note the opening which element 14 is threaded into and that this opening has a “curved surface”.

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Regarding claim 4, as broadly claimed, the cam 17 or the bearing 13, may be considered to be a roller element arranged "at" the curved surface, as broadly claimed.

Regarding claim 5, in light of the 103 rejection above, this requirement is met.

Regarding claims 6,8,11,14,15 as can easily be seen in the drawings, and as broadly claimed, these requirements are met.

Regarding claims 9,10 subject to the 103 interpretation above, these requirements are met since the upper element 33 of Tillman may be supplemented with a spring retaining washer as well.

Regarding claims 20-22 note the pins at 26.

Regarding claim 24, as broadly claimed, note the upper section of the device including piston 33, channel 48 etc.

Regarding claims 25-27, as broadly claimed, note the "setting system" at 17,25,27, the "ball" bearings at 13,15 and the blocking system in the upper part of the device.

Regarding claim 28, as broadly claimed, note the shaft at 11,22,23, the connecting link at 14 or 24,25, as broadly claimed, and the guide element 13,15 or 17.

Regarding claim 29 note that the setting means may be interpreted as a number of different elements. One could be the guide slots 24 in plates 25 and or the pins 26 or element 14.

Regarding claim 30 note the threaded bore in the area of 12 to which a "setting means" in the form of a screw is capable of engaging.

Regarding claim 31 note the bearings at 13 or 15.

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Regarding claims 32-34 these requirements are met, as clearly seen in the drawings.

Claim Rejections - 35 USC § 103

10. Claim 23 rejected under 35 U.S.C. 103(a) as being unpatentable over Tillman '939.

11. Regarding claims 23 although Tillman '939 lacks a clamp per se at 12,14 it would have been obvious to the ordinary skilled worker in the art at the time of the invention to have replaced or substituted the assembly at 12,14 with a "clamping fitting" as broadly claimed or other equivalent arrangement to adapt the device to different door configurations.

Claim 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Tillman '468 in view of Toledo.

Regarding claim 15 although '468 lacks a showing of a 'coupling flange" per se it would have been obvious to have adapted the device to connect it to the door as generally taught by Toledo in figure 1.

Allowable Subject Matter

12. Claims 7,12,13,16-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references cited have been cited for showing other examples of door checks.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Schwartz whose telephone number is 703-308-0576. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack W. Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cps
11/18/04

CHRISTOPHER P. SCHWARTZ
PRIMARY EXAMINER

